

# EXHIBIT 5

Transcript of the Testimony of  
**Betty Lehew**

**Date:**

September 07, 2016

**Case:**

ARTIS ELLIS VS. EDUCATIONAL COMM. FOR FOREIGN MED. GRADS

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Betty LeheW

September 07, 2016

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ARTIS ELLIS	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	C.A. NO. 4:14-cv-02126
	)	
EDUCATIONAL COMMISSION	)	
FOR FOREIGN MEDICAL	)	
GRADUATES	)	
	)	
DEFENDANT.	)	

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ORAL DEPOSITION OF  
BETTY LEHEW  
SEPTEMBER 7, 2016

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Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>1 ORAL DEPOSITION OF BETTY LEHEW, produced as a</p> <p>2 witness at the instance of the Plaintiff, and duly</p> <p>3 sworn, was taken in the above-styled and numbered cause</p> <p>4 on SEPTEMBER 7, 2016, from 11:09 a.m. to 12:06 p.m.,</p> <p>5 before Michelle K. Miller, CSR, RPR in and for the</p> <p>6 State of Texas, reported by machine shorthand, at the</p> <p>7 offices of Morgan, Lewis, &amp; Bockius, LLP, 1000</p> <p>8 Louisiana, Suite 4000, Houston, Texas 77002, pursuant</p> <p>9 to the Federal Rules of Civil Procedure and the</p> <p>10 provisions stated on the record or attached hereto.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Appearances..... 3</p> <p>BETTY LEHEW</p> <p>Examination by Ms. Harrold..... 5</p> <p>Signature and Changes..... 51</p> <p>Reporter's Certificate..... 53</p> <p>EXHIBITS</p> <p>NO. DESCRIPTION PAGE</p> <p>1 Policy and Procedures Manual 13</p> <p>2 Policy and Procedures Manual 23</p> <p>3 Email String 44</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 Mr. Alfonso Kennard, Jr.</p> <p>5 Ms. Keenya R. Harrold</p> <p>6 Kennard Richard</p> <p>7 2603 Augusta Drive, Suite 1450</p> <p>8 Houston, Texas 77057</p> <p>9 Tel: 713.742.0900</p> <p>10 Fax: 713.742.0951</p> <p>11 Email: alfonso.kennard@kennardlaw.com</p> <p>12 keenya.harrold@kennardlaw.com</p> <p>13</p> <p>14 FOR THE DEFENDANT:</p> <p>15 Ms. Erin E. O'Driscoll</p> <p>16 Morgan, Lewis, &amp; Bockius, LLP</p> <p>17 1000 Louisiana, Suite 4000</p> <p>18 Houston, Texas 77002</p> <p>19 Tel: 713.890.5169</p> <p>20 Fax: 713.890.5001</p> <p>21 Email: erin.odriscoll@morganlewis.com</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24 Ms. Artis Ellis</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 BETTY LEHEW,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MR. KENNARD:</p> <p>5 Q. Ms. LeHew, my name is Alfonso Kennard. How</p> <p>6 are you today?</p> <p>7 A. Good. How are you?</p> <p>8 Q. All right, thank you. You understand that I</p> <p>9 represent Artis Ellis in this lawsuit, correct?</p> <p>10 A. Yes.</p> <p>11 Q. What is your title?</p> <p>12 A. Assistant Vice President of Human Resources.</p> <p>13 Q. Are you at the top of the food chain when it</p> <p>14 comes to human resources?</p> <p>15 A. Yes.</p> <p>16 Q. You might want to speak a little louder to</p> <p>17 make sure that the court reporter can hear you well</p> <p>18 enough to transcribe what you're saying. Okay?</p> <p>19 A. Okay.</p> <p>20 Q. All right. Have you ever given your</p> <p>21 deposition before?</p> <p>22 A. Yes.</p> <p>23 Q. How many occasions?</p> <p>24 A. Probably three or four.</p> <p>25 Q. Okay. So you know the general rules?</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Yes.</p> <p>2 Q. Okay. I'll just ask that you allow me to</p> <p>3 finish asking my question before you answer; is that</p> <p>4 fair?</p> <p>5 A. Yes.</p> <p>6 Q. And if you don't understand a question, will</p> <p>7 you let me know?</p> <p>8 A. Yes.</p> <p>9 Q. And please make sure to give verbal answers.</p> <p>10 A. Okay.</p> <p>11 Q. Okay. Were you involved in the termination of</p> <p>12 Ms. Ellis?</p> <p>13 A. I'm not sure exactly what you mean by</p> <p>14 "involved."</p> <p>15 Q. Were you a decision maker?</p> <p>16 A. No.</p> <p>17 Q. Who was the decision maker?</p> <p>18 A. Nancy Ambrose.</p> <p>19 Q. Okay. And I'm going to need you to speak up.</p> <p>20 A. Nancy Ambrose.</p> <p>21 Q. Okay. Did Ms. Ambrose consult with you before</p> <p>22 terminating Ms. Ellis?</p> <p>23 A. Yes, she did.</p> <p>24 Q. Can you tell me the basis of -- or tell me</p> <p>25 what you-all discussed.</p>	<p style="text-align: right;">Page 8</p> <p>1 -- assistant vice president in charge of</p> <p>2 human resources --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- do you think it's important to conduct</p> <p>5 internal investigations relating to employees such as</p> <p>6 Ms. Ellis?</p> <p>7 A. I'm not sure what you mean by that.</p> <p>8 Q. Okay. What was Ms. Ellis' position prior to</p> <p>9 her termination?</p> <p>10 A. Center manager.</p> <p>11 Q. So she ran a center?</p> <p>12 A. Yes.</p> <p>13 Q. In Houston?</p> <p>14 A. Yes.</p> <p>15 Q. Do you think it's prudent to investigate</p> <p>16 concerns in your human resources function that relate</p> <p>17 to someone that is a manager for an entire center?</p> <p>18 A. I'm not sure what you mean.</p> <p>19 Q. Okay. Do you think it is within your function</p> <p>20 to investigate claims that are made against a center</p> <p>21 manager --</p> <p>22 MS. O'DRISCOLL: Objection.</p> <p>23 Q. (BY MR. KENNARD) -- in your function as the</p> <p>24 human resources professional for the company?</p> <p>25 MS. O'DRISCOLL: Objection, form; asked</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Nancy shared with me some issues that were</p> <p>2 uncovered at the center and expressed those issues to</p> <p>3 Artis, who was given an opportunity to explain them,</p> <p>4 and Nancy looked into them further and found that it</p> <p>5 was grounds for termination.</p> <p>6 Q. Okay. Did you agree with her assessment?</p> <p>7 A. Yes.</p> <p>8 Q. Did you review -- strike that question.</p> <p>9 Did you do -- sorry -- did you do</p> <p>10 anything to independently confirm what Ms. Ambrose had</p> <p>11 said to you about Ms. Ellis?</p> <p>12 A. I'm not sure what you mean.</p> <p>13 Q. Did you investigate anything relating to the</p> <p>14 issues that Ms. Ambrose raised about Ms. Ellis?</p> <p>15 A. No. That's not my role.</p> <p>16 Q. What is your role when someone comes to you</p> <p>17 with recommending termination of an employee?</p> <p>18 A. To hear what the manager has to say. To make</p> <p>19 sure that the manager has expressed those issues and</p> <p>20 concerns with the employee, and that the employee has</p> <p>21 had a chance to respond. That's really kind of what</p> <p>22 the role is.</p> <p>23 Q. Okay. As the director of human resources --</p> <p>24 A. I'm the assistant vice president.</p> <p>25 Q. Okay. I'm sorry.</p>	<p style="text-align: right;">Page 9</p> <p>1 and answered.</p> <p>2 A. I'm not sure I understand what you mean,</p> <p>3 "claims."</p> <p>4 Q. (BY MR. KENNARD) Okay. So Ms. Ambrose -- you</p> <p>5 testified already that Ms. Ambrose raised concerns to</p> <p>6 you about Ms. Ellis; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And you have stated that you did not</p> <p>9 independently investigate those claims; is that</p> <p>10 correct?</p> <p>11 A. I did not investigate the claims that</p> <p>12 Ms. Ambrose brought to my attention, no.</p> <p>13 Q. Regarding Ms. Ellis?</p> <p>14 A. Right.</p> <p>15 Q. So my question to you -- in your function as</p> <p>16 the top HR person for the company, my question to you</p> <p>17 is: Do you think it would have been prudent to</p> <p>18 investigate the claims that Ms. Ambrose made regarding</p> <p>19 Ms. Ellis who, at the time, was a center manager?</p> <p>20 MS. O'DRISCOLL: Objection, form; asked</p> <p>21 and answered.</p> <p>22 MR. KENNARD: She keeps telling me she</p> <p>23 doesn't understand what I'm asking her, so she hasn't</p> <p>24 answered. So I'm asking it again.</p> <p>25 Q. (BY MR. KENNARD) You can answer my</p>



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Pages 10 to 13

<p style="text-align: right;">Page 10</p> <p>1 question --</p> <p>2 A. Repeat it again.</p> <p>3 Q. I'll have the court reporter repeat the</p> <p>4 question to you.</p> <p>5 (The requested portion was read back.)</p> <p>6 A. No. That is not my role.</p> <p>7 Q. (BY MR. KENNARD) Whose role is that? Is</p> <p>8 there someone else in human resources that would</p> <p>9 otherwise investigate?</p> <p>10 A. No. We don't investigate a decision for</p> <p>11 termination.</p> <p>12 Q. Okay. Were you aware of Ms. Ellis' medical</p> <p>13 issues?</p> <p>14 MS. O'DRISCOLL: Objection, form.</p> <p>15 A. I was aware that she had taken FMLA for</p> <p>16 medical reasons, yes.</p> <p>17 Q. (BY MR. KENNARD) Okay. Were you aware that</p> <p>18 she was terminated from her employment as soon as she</p> <p>19 came back from FMLA?</p> <p>20 A. She was not.</p> <p>21 Q. She wasn't?</p> <p>22 A. No. She was put on administrative leave.</p> <p>23 Q. Okay. She was put on administrative leave?</p> <p>24 A. Yes.</p> <p>25 Q. Did she ever return after that administrative</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Let me get this right. So the day that she</p> <p>2 returns from leave, these issues are raised to her,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And that same day, she was put on</p> <p>6 administrative leave, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you think that gave her an ample</p> <p>9 opportunity to respond to those issues in that same day</p> <p>10 before being placed on administrative leave?</p> <p>11 A. She -- we were -- sat with her for two hours</p> <p>12 going over the issues, and she responded to each one</p> <p>13 that we went through and gave a response enough that</p> <p>14 her managers had to look into what she was saying for</p> <p>15 each issue.</p> <p>16 Q. So you made the decision that day to put her</p> <p>17 on administrative leave, right?</p> <p>18 MS. O'DRISCOLL: Objection.</p> <p>19 A. I did not make the decision.</p> <p>20 Q. (BY MR. KENNARD) You acquiesced to that</p> <p>21 decision; is that correct?</p> <p>22 MS. O'DRISCOLL: Objection, form.</p> <p>23 A. What do you mean?</p> <p>24 Q. (BY MR. KENNARD) You didn't do anything to</p> <p>25 stop it?</p>
<p style="text-align: right;">Page 11</p> <p>1 leave?</p> <p>2 A. No, she did not.</p> <p>3 Q. So when was she put on administrative leave?</p> <p>4 A. On the day that she returned, after a meeting.</p> <p>5 Q. On the day that she returned from FMLA leave,</p> <p>6 correct?</p> <p>7 A. After a meeting with her supervisors.</p> <p>8 Q. And did she ever return to work after that</p> <p>9 administrative leave?</p> <p>10 A. No.</p> <p>11 Q. As the head of HR for the company, did that</p> <p>12 not raise any concerns for you?</p> <p>13 A. Not sure what you mean by that.</p> <p>14 Q. Were you concerned that she was put on</p> <p>15 administrative leave the day she got back from FMLA</p> <p>16 leave?</p> <p>17 A. No, I was not.</p> <p>18 Q. Why not?</p> <p>19 A. Because she was given the opportunity to</p> <p>20 explain the issues that were presented to her, and the</p> <p>21 explanations were not clear enough to erase or</p> <p>22 eliminate the issues, so they had to be looked into by</p> <p>23 her supervisors.</p> <p>24 Q. When were those issues presented to her?</p> <p>25 A. On the day that she returned from leave.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. No.</p> <p>2 Q. Okay. What is the policy for administrative</p> <p>3 leave at the company?</p> <p>4 A. When the --</p> <p>5 Q. Yes, hold on. Let me make sure that you</p> <p>6 understand my question, what I'm asking for and what</p> <p>7 I'm looking for.</p> <p>8 A. Okay.</p> <p>9 Q. What is the policy for placing someone on</p> <p>10 administrative leave at the company?</p> <p>11 A. I can't quote the whole policy without looking</p> <p>12 at it, but I can summarize it.</p> <p>13 MR. KENNARD: I'm going to mark this as</p> <p>14 Exhibit 1 to your deposition.</p> <p>15 (Exhibit 1 was marked.)</p> <p>16 Q. (BY MR. KENNARD) Please review that document,</p> <p>17 and let me know when you've had a chance to review it.</p> <p>18 Do you recognize this document?</p> <p>19 A. Yes.</p> <p>20 Q. What is this document?</p> <p>21 A. This is our corrective action policy.</p> <p>22 Q. Can you go to page 2 of 5, please, of the</p> <p>23 correction action -- corrective action policy?</p> <p>24 A. Page what?</p> <p>25 Q. Page 2 of 5. It's numbered here at the top.</p>

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Pages 14 to 17

<p style="text-align: right;">Page 14</p> <p>1 A. Oh. Okay.</p> <p>2 Q. Do you see the section -- the subsection</p> <p>3 called "Administrative leave"?</p> <p>4 A. Yes. The definition.</p> <p>5 Q. Okay. Can you read the administrative leave</p> <p>6 policy for me, please?</p> <p>7 MS. O'DRISCOLL: Objection, form.</p> <p>8 A. Well, it's not the policy. It's just the</p> <p>9 definition.</p> <p>10 Q. (BY MR. KENNARD) Okay. Can you -- can you</p> <p>11 read the definition of -- of -- for administrative</p> <p>12 leave?</p> <p>13 A. Yes. "Administrative leave is used when a</p> <p>14 supervisor/manager perceives that the employee may</p> <p>15 cause a potential threat to themselves or others or</p> <p>16 when the employee is behaving in a disruptive and/or</p> <p>17 unruly manner that management is not able to handle.</p> <p>18 The employee should be sent home for the day with pay,</p> <p>19 pending investigation of the situation by the</p> <p>20 supervisor/manager. HR must be informed when an</p> <p>21 employee has been put on administrative leave to assist</p> <p>22 with the investigation."</p> <p>23 Q. Okay. So you're HR, right?</p> <p>24 A. Yes.</p> <p>25 Q. Did you assist with an investigation?</p>	<p style="text-align: right;">Page 16</p> <p>1 administrative leave in light of this definition.</p> <p>2 A. The part that says the employee is behaving in</p> <p>3 a disruptive or unruly manner that management is not</p> <p>4 able to handle.</p> <p>5 Q. Okay. How was she acting in a disruptive or</p> <p>6 unruly manner that management was unable to handle?</p> <p>7 A. At that moment, she wasn't. The reports that</p> <p>8 they were investigating were things that they felt they</p> <p>9 were not able to handle and investigate with her in the</p> <p>10 center.</p> <p>11 Q. But she had been on FMLA leave prior to being</p> <p>12 placed on administrative leave, correct?</p> <p>13 A. Yes. I'm not talking about when she was on</p> <p>14 the administrative leave. The issues that were</p> <p>15 uncovered were not issues that occurred when she was on</p> <p>16 the administrative leave. They were things that</p> <p>17 occurred prior to that.</p> <p>18 Q. Okay. But she was allowed back into the</p> <p>19 facility, correct?</p> <p>20 A. That morning, yes.</p> <p>21 Q. That morning, was she acting in a disruptive</p> <p>22 or unruly manner?</p> <p>23 A. That morning, she was not.</p> <p>24 Q. All right. Let's look at "Termination of</p> <p>25 employment."</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No, I did not.</p> <p>2 Q. Okay. And did -- were you aware -- or did you</p> <p>3 believe that Ms. Ellis was a potential threat to</p> <p>4 herself or others?</p> <p>5 A. No, I did not.</p> <p>6 Q. Okay. And you realize that she had just come</p> <p>7 back from brain surgery, right?</p> <p>8 MS. O'DRISCOLL: Objection, form.</p> <p>9 A. I realized she just came back from a procedure</p> <p>10 from FMLA.</p> <p>11 Q. (BY MR. KENNARD) Okay. Is there anything in</p> <p>12 this administrative leave policy that states an</p> <p>13 employee should be placed on administrative leave</p> <p>14 because a manager perceives she's having work issues?</p> <p>15 MS. O'DRISCOLL: Objection, form;</p> <p>16 mischaracterizes the document.</p> <p>17 A. I'm not sure what you mean by "work issues."</p> <p>18 Q. (BY MR. KENNARD) Issues with her employment.</p> <p>19 Does -- is that stated anywhere in this</p> <p>20 definition of "Administrative leave"?</p> <p>21 A. Not specifically the way you worded it.</p> <p>22 Q. Well, anywhere in here -- how would you word</p> <p>23 it?</p> <p>24 A. How would I word what?</p> <p>25 Q. To justify Ms. Ellis being placed on</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Uh-huh.</p> <p>2 Q. Can you read that definition for me?</p> <p>3 A. Yes. "Termination of employment is a</p> <p>4 consequence for not meeting the expectations of a" --</p> <p>5 "of in" -- sorry, that's a typo -- "the formal</p> <p>6 corrective action process. Termination occurs when the</p> <p>7 employee has failed to correct a problem or situation</p> <p>8 despite receipt of a written warning and/or a final</p> <p>9 written warning. In addition to foregoing -- to the</p> <p>10 foregoing, termination may occur immediately without</p> <p>11 prior corrective action, depending on the nature,</p> <p>12 frequency, and severity of the violation. Termination</p> <p>13 decisions must be reviewed with human resources before</p> <p>14 they take effect."</p> <p>15 Q. Did you review the decision to terminate</p> <p>16 Ms. Ellis before it took effect?</p> <p>17 A. Yes.</p> <p>18 Q. And you approved it, correct?</p> <p>19 A. Yes. Well, I didn't approve it. I'm not</p> <p>20 someone that approved it. It's not an approval. It's</p> <p>21 just a review process.</p> <p>22 Q. You allowed it to take effect?</p> <p>23 A. I didn't get in the way of it.</p> <p>24 Q. Okay. Fair enough.</p> <p>25 Do you know if Ms. Ellis was allowed to</p>



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Pages 18 to 21

<p style="text-align: right;">Page 18</p> <p>1 engage in the formal corrective action process?</p> <p>2 MS. O'DRISCOLL: Objection, form.</p> <p>3 A. I don't understand what you mean by allowed to</p> <p>4 engage in it.</p> <p>5 Q. (BY MR. KENNARD) Was she -- okay. Let me ask</p> <p>6 you this: What is the formal corrective action process</p> <p>7 at the company?</p> <p>8 A. It's on here. Let's see. I mean, do you want</p> <p>9 me to read the whole thing that's on here?</p> <p>10 Q. Just tell me about it. Tell me what the</p> <p>11 corrective action process is.</p> <p>12 A. Are you asking me to summarize it?</p> <p>13 Q. I want you to tell me -- to testify from your</p> <p>14 experience as the top person in HR for the company what</p> <p>15 the corrective action -- formal corrective action</p> <p>16 process is.</p> <p>17 A. Is that we would normally give a written</p> <p>18 warning and then possibly a second written warning or a</p> <p>19 final written warning before termination, but that at</p> <p>20 any point if the manager feels the violations are</p> <p>21 severe or frequent, that it can be accelerated to</p> <p>22 immediate termination.</p> <p>23 Q. Okay. Was Ms. Ellis given the opportunity to</p> <p>24 correct a problem or situation?</p> <p>25 MS. O'DRISCOLL: Objection, form.</p>	<p style="text-align: right;">Page 20</p> <p>1 the opportunity to correct any problems or situations</p> <p>2 while she was on FMLA leave, do you?</p> <p>3 A. No.</p> <p>4 Q. Okay. And she was presented with issues the</p> <p>5 day she got back?</p> <p>6 A. Yes.</p> <p>7 Q. Was she given the opportunity to correct any</p> <p>8 problems or situations upon her coming back to work</p> <p>9 from FMLA leave?</p> <p>10 A. She was given the opportunity to respond and</p> <p>11 explain the concerns that were uncovered while she was</p> <p>12 out on leave.</p> <p>13 Q. But not the opportunity to correct; is that</p> <p>14 right?</p> <p>15 A. No.</p> <p>16 Q. Do you know of any instances in your</p> <p>17 experience as an HR professional for the company where</p> <p>18 employees who had problems or situations at work were</p> <p>19 given the opportunity to correct --</p> <p>20 MS. O'DRISCOLL: Objection, form.</p> <p>21 Q. (BY MR. KENNARD) -- their -- those issues?</p> <p>22 A. I'm sorry. Can you repeat that?</p> <p>23 Q. Sure. Do you know -- are you aware of any</p> <p>24 instances where an employee was given the opportunity</p> <p>25 to correct a problem or situation after having been</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. (BY MR. KENNARD) I'm just reading from the</p> <p>2 definition or the -- where the --</p> <p>3 A. I don't know which specific one you're talking</p> <p>4 about.</p> <p>5 Q. -- in the corrective action policy. Let's go</p> <p>6 back to "Termination of employment."</p> <p>7 A. Okay.</p> <p>8 Q. You read that to me.</p> <p>9 A. Yes.</p> <p>10 Q. In here it says, "Termination occurs when the</p> <p>11 employee has failed to correct a problem or problems or</p> <p>12 situations despite receipt of a written warning" --</p> <p>13 "and/or final written warning."</p> <p>14 Was Ms. Ellis given a written and/or</p> <p>15 final written warning?</p> <p>16 MS. O'DRISCOLL: Objection, form.</p> <p>17 A. She was given a written warning.</p> <p>18 Q. (BY MR. KENNARD) I'm asking you, was she?</p> <p>19 A. Yes.</p> <p>20 Q. When?</p> <p>21 A. In August, I believe, of 2012.</p> <p>22 Q. Was that before or after her FMLA leave?</p> <p>23 A. Before.</p> <p>24 Q. Okay. All right.</p> <p>25 You don't expect that she would have had</p>	<p style="text-align: right;">Page 21</p> <p>1 given a written warning?</p> <p>2 A. Yes.</p> <p>3 Q. But Ms. Ellis was not given that opportunity,</p> <p>4 correct?</p> <p>5 A. Not when she was presented with the issues on</p> <p>6 the day that she returned. She was given an</p> <p>7 opportunity to explain them.</p> <p>8 Q. Well, let's talk about the issues that were</p> <p>9 raised. From your understanding, why was Ms. Ellis</p> <p>10 terminated?</p> <p>11 A. There were several reasons, but the primary</p> <p>12 one was a lack of trust on her part by her supervisors</p> <p>13 based on several issues that could not be answered.</p> <p>14 Q. Let's talk about them. I want to know what</p> <p>15 your understanding is of why she was terminated. So</p> <p>16 let's go through each one.</p> <p>17 A. Okay.</p> <p>18 Q. So I'll let you start wherever you'd like.</p> <p>19 Let's start with -- so what was the first reason that</p> <p>20 you can think of that she was terminated?</p> <p>21 A. I believe we gave you a document that lists</p> <p>22 the issues that were presented to her.</p> <p>23 Q. And I can appreciate that, but I'm asking you</p> <p>24 to tell me from your understanding, as you sit here</p> <p>25 right now, why she was terminated.</p>



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Pages 22 to 25

<p style="text-align: right;">Page 22</p> <p>1 A. There were several policy violations. There</p> <p>2 were complaints that were looked into from the</p> <p>3 employees. Numerous complaints. There were a lot of</p> <p>4 different policy violations.</p> <p>5 Q. What else?</p> <p>6 A. Off the top of my head, I can't recall all the</p> <p>7 specifics without looking at the document. I didn't</p> <p>8 make the termination decision.</p> <p>9 Q. What policy violations?</p> <p>10 A. Giving her password out, hiring an employee --</p> <p>11 or hiring someone that she had a personal relationship</p> <p>12 with that wasn't disclosed or given approval for, were</p> <p>13 two of them.</p> <p>14 Q. Did you look into the personal relationship</p> <p>15 issue?</p> <p>16 A. I didn't, no. Her supervisors did.</p> <p>17 Q. Did you look into the password issue?</p> <p>18 A. No, I did not.</p> <p>19 Q. Before the termination decision was made, were</p> <p>20 you told about the personal relationship issue being a</p> <p>21 factor in her termination?</p> <p>22 A. Was I told about it?</p> <p>23 Q. Yes.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So you were aware that one of the</p>	<p style="text-align: right;">Page 24</p> <p>1 A. That would fall under the definition of</p> <p>2 "significant other."</p> <p>3 Q. Significant other. How so?</p> <p>4 A. She hired and then subsequently promoted a man</p> <p>5 who was the father of her child without disclosing that</p> <p>6 or getting approval from anyone in a direct reporting</p> <p>7 relationship.</p> <p>8 Q. We're talking about Troi, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Do you know if Troi and Ms. Ellis were</p> <p>11 related by blood?</p> <p>12 A. I don't have that information, no.</p> <p>13 Q. Do you have any reason to believe that they</p> <p>14 are not related by blood?</p> <p>15 A. Do I have any reason to what?</p> <p>16 Q. Do you have any reason to dispute that they</p> <p>17 are not related by blood?</p> <p>18 A. No.</p> <p>19 Q. Do you have any reason to dispute that they</p> <p>20 are not related by virtue of adoption?</p> <p>21 A. No.</p> <p>22 Q. Do you have any reason to dispute that they</p> <p>23 are not related by virtue of marriage?</p> <p>24 A. No.</p> <p>25 Q. Do you have any reason to believe they are not</p>
<p style="text-align: right;">Page 23</p> <p>1 reasons for her termination before she was terminated</p> <p>2 was because of some purported personal relationship,</p> <p>3 right?</p> <p>4 A. Yes, I was aware of it.</p> <p>5 Q. Okay.</p> <p>6 (Exhibit 2 was marked.)</p> <p>7 Q. (BY MR. KENNARD) I'm going to hand you what</p> <p>8 we're marking as Exhibit 2 to your deposition.</p> <p>9 Do you recognize this document?</p> <p>10 A. Yes.</p> <p>11 Q. What is this?</p> <p>12 A. It looks a little different because there's</p> <p>13 things at the top that I don't recognize, but the</p> <p>14 content of it is our employment of relatives policy.</p> <p>15 Q. Okay. And can you read the definition of</p> <p>16 "Relative" in Subsection 2 under "Definitions" where it</p> <p>17 says "Relative"?</p> <p>18 A. Yes. "Relative is defined as any of the</p> <p>19 following including by virtue of blood, adoption,</p> <p>20 marriage, or remarriage, or domestic partnership</p> <p>21 (significant other or affianced), spouse, children,</p> <p>22 grandchildren, parents, grandparents, siblings, uncles,</p> <p>23 aunts, nephews, nieces, and cousins."</p> <p>24 Q. So how did Ms. Ellis violate the personal</p> <p>25 relationship policy?</p>	<p style="text-align: right;">Page 25</p> <p>1 related by virtue of remarriage?</p> <p>2 A. No.</p> <p>3 Q. Okay. Do you have any reason to believe that</p> <p>4 they are not related by virtue of domestic partnership?</p> <p>5 A. No.</p> <p>6 Q. Do you have any reason to dispute that they</p> <p>7 are not related by virtue of them being a spouse to one</p> <p>8 another?</p> <p>9 A. No.</p> <p>10 Q. Do you have any reason to believe that they</p> <p>11 are not related by virtue of one being a child of</p> <p>12 another?</p> <p>13 A. No.</p> <p>14 Q. Do you have any reason to dispute that they</p> <p>15 are not related by virtue of them being a grandchild to</p> <p>16 one another?</p> <p>17 A. No.</p> <p>18 Q. Do you have any reason to dispute that they</p> <p>19 are not related by virtue of being a parent of one</p> <p>20 another?</p> <p>21 A. No.</p> <p>22 Q. Or a grandparent?</p> <p>23 A. No.</p> <p>24 Q. A sibling?</p> <p>25 A. No.</p>

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Pages 26 to 29

<p style="text-align: right;">Page 26</p> <p>1 Q. An uncle?</p> <p>2 A. No.</p> <p>3 Q. An aunt?</p> <p>4 A. No.</p> <p>5 Q. A nephew?</p> <p>6 A. No.</p> <p>7 Q. A niece?</p> <p>8 A. No.</p> <p>9 Q. Or a cousin?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of any instances where someone</p> <p>12 that is deemed a relative was allowed to work at the</p> <p>13 company?</p> <p>14 A. Several, yes.</p> <p>15 Q. Okay. And were those individuals terminated?</p> <p>16 A. No.</p> <p>17 Q. In fact, you're one of them, right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Who did you hire?</p> <p>20 A. I didn't specifically hire anyone.</p> <p>21 Q. Okay. Didn't your stepdaughter work for the</p> <p>22 company?</p> <p>23 A. She did.</p> <p>24 Q. Did you make it known that your stepdaughter</p> <p>25 was working there?</p>	<p style="text-align: right;">Page 28</p> <p>1 A. "This policy applies to all employees, and</p> <p>2 independent contractors, agency contractors, agency</p> <p>3 temporary staff, and interns."</p> <p>4 Q. Okay. So your stepdaughter was a temporary</p> <p>5 worker, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So this policy would have applied to you and</p> <p>8 her, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Let's look at the guidelines.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Can you read that first paragraph for me,</p> <p>13 please?</p> <p>14 A. "ECFMG will not hire or employ anyone in a</p> <p>15 reporting relationship within the following" -- "with</p> <p>16 the following relation to an existing part-time or</p> <p>17 full-time employee: Spouse, parent, child or sibling,</p> <p>18 including step or adopted relationships, grandparent or</p> <p>19 grandchild or in-laws to the same degree.</p> <p>20 ECFMG will not hire or employ anyone on a</p> <p>21 full-time or part-time basis in the same department</p> <p>22 with a supervisory relationship to an existing</p> <p>23 full-time or part-time employee."</p> <p>24 Q. Were you in a supervisory relationship to your</p> <p>25 stepdaughter?</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Yes.</p> <p>2 Q. Were you terminated?</p> <p>3 A. No.</p> <p>4 Q. You're still there, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Is your stepdaughter a relative to you?</p> <p>7 A. Yes. Yes.</p> <p>8 Q. What department did your stepdaughter work in?</p> <p>9 A. She worked in the ERAS department, and she</p> <p>10 worked in the HR department.</p> <p>11 Q. Okay. The same HR department that you're the</p> <p>12 head of?</p> <p>13 A. Yes.</p> <p>14 Q. Do you believe that's a violation of the</p> <p>15 policy?</p> <p>16 A. No.</p> <p>17 Q. Why not?</p> <p>18 A. Because there was very clear disclosure and</p> <p>19 approval given for that, and it was also a part-time,</p> <p>20 temporary summer help and it was approved by an</p> <p>21 executive. Actually, it was requested by an executive.</p> <p>22 Q. Okay. Let's look at "Eligibility."</p> <p>23 A. Uh-huh.</p> <p>24 Q. Can you read that sentence under</p> <p>25 "Eligibility"?</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Not an immediate supervisor.</p> <p>2 Q. But a supervisor nonetheless?</p> <p>3 A. Above the supervisor, yes.</p> <p>4 Q. And you see where it says there that "ECFMG</p> <p>5 will not hire or employ anyone in a reporting</p> <p>6 relationship including a step or adoptive</p> <p>7 relationship." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. So you were in violation of the policy,</p> <p>10 correct?</p> <p>11 MS. O'DRISCOLL: Objection, form.</p> <p>12 A. No.</p> <p>13 Q. (BY MR. KENNARD) Was your stepdaughter hired</p> <p>14 in a part-time role?</p> <p>15 A. Yes.</p> <p>16 Q. And was she in the same department as you?</p> <p>17 A. Yes.</p> <p>18 Q. At the time that Artis Ellis was terminated,</p> <p>19 Troi was not her spouse, right?</p> <p>20 A. Correct.</p> <p>21 Q. Troi was not her parent, right?</p> <p>22 A. I'm sorry, what?</p> <p>23 Q. Troi was not her parent, right?</p> <p>24 A. Right.</p> <p>25 Q. She was not Troy's parent, right?</p>

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Pages 30 to 33

<p style="text-align: right;">Page 30</p> <p>1 A. Right.</p> <p>2 Q. Troi was not her child, right?</p> <p>3 A. Right.</p> <p>4 Q. And Troi was not her child, right?</p> <p>5 A. Right.</p> <p>6 Q. Troi was not her sibling, right?</p> <p>7 A. Right.</p> <p>8 Q. Troi was not her grandparent, right?</p> <p>9 A. Right.</p> <p>10 Q. She was not her -- she was not Troy's</p> <p>11 grandparent, right?</p> <p>12 A. Right.</p> <p>13 Q. Or grandchild, right?</p> <p>14 A. Right.</p> <p>15 Q. Or an in-law, right?</p> <p>16 A. Right.</p> <p>17 Q. You mentioned earlier that you felt that Troi</p> <p>18 and Ms. Ellis were significant others, right?</p> <p>19 A. No.</p> <p>20 Q. You didn't?</p> <p>21 A. I didn't say that they were, I said it fell</p> <p>22 under the definition of significant other.</p> <p>23 Q. How does it fall under that definition?</p> <p>24 A. Because in her manager's opinion, the director</p> <p>25 of center operation, the executive director's opinion,</p>	<p style="text-align: right;">Page 32</p> <p>1 under ECFMG's definition of "significant other."</p> <p>2 Q. Where is "significant other" defined?</p> <p>3 A. Right here in the policy.</p> <p>4 Q. Okay. Read that for me.</p> <p>5 A. "Significant other, for the purpose of this</p> <p>6 policy, is any other interpersonal relationship between</p> <p>7 individuals which creates a relationship similar to</p> <p>8 those described in the definition above. May be</p> <p>9 included under the provision of this policy, if one of</p> <p>10 those parties has influence over the other."</p> <p>11 Q. Okay. So who gets to decide if someone has a</p> <p>12 significant other to someone else?</p> <p>13 A. Are you asking me who --</p> <p>14 Q. I'm asking you: Who gets to decide if someone</p> <p>15 is a significant other to someone else?</p> <p>16 A. The person who is interpreting the policy,</p> <p>17 which is the manager of the employee.</p> <p>18 Q. So it didn't matter to you that Ms. Ellis told</p> <p>19 you that Troi was not a significant other to her?</p> <p>20 A. I'm sorry. Did it matter to me?</p> <p>21 Q. Yeah. Did it matter to you when -- you didn't</p> <p>22 stop the termination?</p> <p>23 A. Correct.</p> <p>24 Q. Was it -- were you made aware that -- that</p> <p>25 Troi -- were you made aware by Ms. Ellis that Troi was</p>
<p style="text-align: right;">Page 31</p> <p>1 also in my opinion, the relationship was similar to</p> <p>2 those described above. Doesn't say it was one</p> <p>3 described above. It says it was similar to.</p> <p>4 Q. Are you married?</p> <p>5 A. Yes.</p> <p>6 Q. You have a stepdaughter?</p> <p>7 A. Yes.</p> <p>8 Q. So that means that your current husband had a</p> <p>9 child with a previous spouse?</p> <p>10 A. Yes.</p> <p>11 Q. What's her name, the previous spouse?</p> <p>12 A. Cindy.</p> <p>13 Q. Cindy. What's her last name?</p> <p>14 A. LeHew.</p> <p>15 Q. That's your last name?</p> <p>16 A. LeHew, yes.</p> <p>17 Q. What's your husband's name?</p> <p>18 A. Jack.</p> <p>19 Q. LeHew?</p> <p>20 A. LeHew.</p> <p>21 Q. A lot of LeHews. Okay. Jack LeHew, you think</p> <p>22 Cindy LeHew is Jack LeHew's significant other?</p> <p>23 A. I would define it under this, yes.</p> <p>24 Q. So he's got two significant others?</p> <p>25 A. He has a spouse, and he has someone that falls</p>	<p style="text-align: right;">Page 33</p> <p>1 not a significant other to her?</p> <p>2 A. Troi is the father of her daughter.</p> <p>3 MR. KENNARD: Objection, nonresponsive.</p> <p>4 That's not what I asked.</p> <p>5 Q. (BY MR. KENNARD) Was it made known to you by</p> <p>6 Ms. Ellis that she did not consider Troi to be a</p> <p>7 significant other?</p> <p>8 A. At that time, no.</p> <p>9 Q. At any time?</p> <p>10 A. No.</p> <p>11 Q. It was never made known to you that Ms. Ellis</p> <p>12 did not consider Troi to be a significant other?</p> <p>13 A. Not until her deposition. Matter of fact, the</p> <p>14 opposite happened. She told me that he was the father</p> <p>15 of her baby, the biological father of her child.</p> <p>16 Q. And nothing more, correct?</p> <p>17 MS. O'DRISCOLL: Objection, form.</p> <p>18 Q. (BY MR. KENNARD) She only -- she only told</p> <p>19 you that that was the biological father of her child?</p> <p>20 A. She told me that -- yep. There was more. She</p> <p>21 told me that she had a long relationship with him, that</p> <p>22 she had known him for over 30 years, that he stepped in</p> <p>23 to raise her child, that he supported her child, that</p> <p>24 he even gave her child his name because she originally</p> <p>25 said he wasn't the biological father, and then the next</p>



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Pages 34 to 37

<p style="text-align: right;">Page 34</p> <p>1 day on the phone she told me that she had to -- she was</p> <p>2 feeling her -- her conscience was bothering her and she</p> <p>3 had to clear it up, and she told me that he was the</p> <p>4 biological father.</p> <p>5 Q. Did she ever tell you that he was her</p> <p>6 significant other?</p> <p>7 A. Not in those words.</p> <p>8 Q. Okay. Was Troi still working at the company</p> <p>9 when Ms. Ellis was terminated?</p> <p>10 A. No.</p> <p>11 MS. O'DRISCOLL: Objection, form.</p> <p>12 Q. (BY MR. KENNARD) He resigned, right?</p> <p>13 A. I --</p> <p>14 Q. Are you aware that he resigned from the</p> <p>15 company?</p> <p>16 A. I don't recall the reason for his leaving.</p> <p>17 Q. And you are aware that Troi didn't work there</p> <p>18 at the time that Ms. Ellis was terminated, correct?</p> <p>19 A. Yes.</p> <p>20 Q. I'll represent to you that Troi had not been</p> <p>21 with the company for a year before Ms. Ellis was</p> <p>22 terminated. Do you have any reason to dispute that?</p> <p>23 A. No.</p> <p>24 Q. So why was it that a year later someone cares</p> <p>25 that Ms. Ellis had a child with him many years before?</p>	<p style="text-align: right;">Page 36</p> <p>1 her?</p> <p>2 A. Yes. Doesn't change the perception of the</p> <p>3 staff.</p> <p>4 Q. Who -- who specifically did you speak with in</p> <p>5 investigating that issue?</p> <p>6 A. I would have to look back through my notes on</p> <p>7 individuals.</p> <p>8 Q. Do you not remember?</p> <p>9 A. Not off the top of my head. Most of it came</p> <p>10 from the managers that were covering as well as Chris</p> <p>11 and Nancy talking to individuals.</p> <p>12 Q. And who were those managers?</p> <p>13 A. Valerie McCluskey was one, Peter O'Colmain was</p> <p>14 one, Elizabeth Denton, Ron Linka, Sandie Pullen, I</p> <p>15 believe that's all of them. I'm not 100 percent sure</p> <p>16 if I missed one.</p> <p>17 Q. Is there anyone else that you received that</p> <p>18 feedback from pertaining to the issue that you</p> <p>19 described?</p> <p>20 A. Well, Chris Paul and Nancy Ambrose.</p> <p>21 Q. Let's talk about the password issue.</p> <p>22 A. Uh-huh.</p> <p>23 Q. What was your understanding of the password</p> <p>24 issue?</p> <p>25 A. My understanding of it was from what was</p>
<p style="text-align: right;">Page 35</p> <p>1 A. It was complaints from the staff that there</p> <p>2 were perceptions of favoritism.</p> <p>3 Q. But he hadn't been there for a year before she</p> <p>4 was terminated?</p> <p>5 A. We didn't hear about any of this from the</p> <p>6 staff until after there was no management in the center</p> <p>7 and we had to send people to cover.</p> <p>8 Q. How could she be playing favorites to someone</p> <p>9 who wasn't there? How does that work?</p> <p>10 A. I'm just telling you the perceptions we heard</p> <p>11 from the staff.</p> <p>12 Q. Did you investigate it?</p> <p>13 A. I did.</p> <p>14 Q. And what did you find?</p> <p>15 A. I -- I spoke to staff, as did several of the</p> <p>16 managers that were coming to the center, and people</p> <p>17 told us that they were afraid to speak up previously,</p> <p>18 but now that there was no one in the center, they were</p> <p>19 sharing their concerns, and those concerns was that</p> <p>20 Ms. Ellis was hiring relatives and there was a</p> <p>21 perception of unfairness. And when we asked who,</p> <p>22 that's when we first learned about her hiring Troi and</p> <p>23 then later promoting Troi.</p> <p>24 Q. And had you learned that Troi had not been</p> <p>25 there for a year at the time that you-all terminated</p>	<p style="text-align: right;">Page 37</p> <p>1 reported to me.</p> <p>2 Q. Did you investigate it?</p> <p>3 A. No.</p> <p>4 Q. Did you ask anybody about it?</p> <p>5 A. Yes.</p> <p>6 Q. Who did you ask about it?</p> <p>7 A. Nancy Ambrose.</p> <p>8 Q. And what did she tell you?</p> <p>9 A. She told me that she looked into the password.</p> <p>10 That she did not sign off the exam; Chris Paul did not</p> <p>11 sign off the exam. She worked with IT to determine how</p> <p>12 the exam was signed off, and it was signed off using</p> <p>13 Artis' password and that she spoke to several staff and</p> <p>14 found out that Sharon Dolberg was asked by Artis to use</p> <p>15 her password -- to use Artis' password; Artis gave</p> <p>16 Sharon her password to sign off the exam.</p> <p>17 Q. And that was while Ms. Ellis was on leave,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. You know she had had a surgical procedure on</p> <p>21 her brain, right?</p> <p>22 A. Yes.</p> <p>23 Q. So why was anybody reaching out to Ms. Ellis</p> <p>24 while she was on leave?</p> <p>25 MS. O'DRISCOLL: Objection, form.</p>



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Pages 38 to 41

<p style="text-align: right;">Page 38</p> <p>1 A. I wasn't told that. I was told that Artis 2 reached out to Sharon and asked her to sign it off with 3 her password. 4 Q. (BY MR. KENNARD) You realize that Ms. Ellis 5 was at the hospital when that happened, right? 6 A. Yes. 7 Q. Okay. What if Ms. Ellis had not provided her 8 password? Could that exam have been signed off on? 9 A. Yes. 10 Q. How? 11 A. Nancy Ambrose or Chris could have signed off 12 on the exam. 13 Q. Did Nancy Ambrose sign off on it? 14 A. No. 15 Q. Did Chris sign off on it? 16 A. No. 17 Q. Should they have signed off on it since 18 Ms. Ellis was out on leave? 19 A. Nancy Ambrose went in to sign off on it, and 20 that's when she discovered that it had already been 21 signed off. 22 Q. How do you know that? 23 A. Nancy told me. 24 Q. Do you know of any other instances where 25 someone else had given someone else a password?</p>	<p style="text-align: right;">Page 40</p> <p>1 A. No. 2 Q. What about Sharon Dolberg? Was she 3 terminated? 4 A. No. 5 Q. Was she reprimanded? 6 A. No. 7 Q. Would she have also been in violation of the 8 policy for using Ms. Ellis' password? 9 A. No. She was following her manager's 10 directions. 11 Q. So while Ms. Ellis was out on FMLA leave, who 12 was handling her function? 13 A. There were several people that were handling 14 it because the assistant manager had resigned, so there 15 was no management in the center. 16 Q. Okay. Who was that? 17 A. It was -- it was rotating, and we didn't put 18 anyone there permanently for the entire time. Chris 19 Paul was there for a good portion of it, Nancy was 20 there for a good portion of it, and the same managers 21 that I just listed to you were also there. Usually, 22 there was two people, whether it was a center manager 23 or director or assistant director at any given time in 24 the center. 25 Q. So Chris Paul?</p>
<p style="text-align: right;">Page 39</p> <p>1 A. No. 2 Q. Could Nancy Ambrose administer an exam? 3 A. I don't know. You would have to explain what 4 you mean by "administer." 5 Q. You tell me. What does it mean to administer 6 an exam? 7 A. There's a lot of steps in the process that 8 goes through administering an exam. 9 Q. Could Nancy Ambrose do any of those steps? 10 A. Yes, she could do some of them. She could 11 probably do all of them. 12 Q. Were you aware that Brent Biggs gave Rich Conn 13 his password? 14 A. No, I was not. 15 Q. Were you aware that Brent also gave his 16 password to Gail Forman? 17 A. No. 18 Q. Is Brent Biggs still with the company? 19 A. No. 20 Q. Did he resign? Was he terminated? 21 A. He resigned. 22 Q. He was not terminated, correct? 23 A. Correct. 24 Q. He was not terminated for any password 25 violations?</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Yes. 2 Q. Nancy Ambrose? 3 A. Yes. 4 Q. Who else? 5 A. Valerie McCluskey, Sandie Pullen, Peter 6 O'Colmain, Ron Linka. I believe that's everyone, but 7 I'm not 100 percent sure. There might have been 8 another manager that helped cover. 9 Q. And any of those managers, would they have 10 been able to administer some component of an exam? 11 A. Yes, they all administer it in their own 12 centers. 13 Q. Okay. Do you know why, if any of those 14 individuals were able to administer exams, why 15 Ms. Ellis had to be involved while she was in the 16 hospital? 17 A. I would have no reason to know why she would 18 feel that she needs to be involved. We did not expect 19 that of her. 20 Q. You say "we." Who is "we"? 21 A. Anyone in the organization. 22 Q. Anyone in the organization? 23 A. Anyone that I'm aware of in the organization. 24 We did not expect that of her. We don't expect that of 25 people on leave.</p>

Betty LeHew

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Pages 42 to 45

<p style="text-align: right;">Page 42</p> <p>1 Q. Were you aware that individuals at the center 2 were still reaching out to her while she was on leave? 3 A. No, I was not. 4 Q. Is Chris Paul still there? 5 A. No. 6 Q. What happened to him? 7 A. His employment was terminated. 8 Q. Why? 9 A. There was a few different issues in 2014 that 10 came up -- 11 Q. Tell me about those. 12 A. -- that was addressed. 13 One that was discovered was that he had 14 falsified his original employment application. 15 One that the executive director of CSEC, 16 which was his immediate supervisor, felt that his 17 actions undermined the executive director's authority. 18 Q. Is there any other reason? 19 A. There was, I think, a third one that was 20 not -- his -- a little bit about his leadership style 21 that was not in line with what we expected. 22 Q. Was he given a warning before he was 23 terminated? 24 A. Yes. 25 Q. Was he given the opportunity to correct his</p>	<p style="text-align: right;">Page 44</p> <p>1 took a short break, and now we're back on the record. 2 Let me hand you what we're going to mark 3 as Exhibit Number 3 to your deposition. 4 (Exhibit 3 was marked.) 5 Q. (BY MR. KENNARD) Do you recognize this 6 e-mail? 7 A. Yes. 8 Q. What's the date of this e-mail? 9 A. The bottom one is June 25th, and the top one 10 is June 27th. 11 Q. Okay. This is before Ms. Ellis went out on 12 FMLA leave, correct? 13 A. Yes. 14 Q. And read for me your response to her -- 15 well -- tell -- tell me -- in your -- in your mind, 16 what is she talking to you about here? What did you 17 understand her to be communicating to you here? 18 A. That she spoke to Ann today, that things went 19 really well, that Ann told her that she would continue 20 to coach and counsel Chris as it relates to allowing 21 her to manage the Houston center. I mean, I can read 22 it. 23 Q. No. Just tell me your understanding. 24 A. That, you know, she had a conversation with 25 Ann about some of her concerns and that Ann is going</p>
<p style="text-align: right;">Page 43</p> <p>1 behavior? 2 A. The opportunity to correct part of the 3 behavior, yes. 4 Q. So how much time did he have from the time 5 that he was told that he -- there were certain issues 6 and the time that he was terminated? 7 A. I would have to look at the dates of the 8 corrective action and the termination to know that. 9 Q. Do you remember if it was more than a day? 10 Was Chris Paul given more than a day to correct some 11 component of his behavior? 12 A. Well, there were different issues from the 13 corrective action to the termination. 14 Q. Okay. Okay. Any of those issues, was he 15 given more -- more than a day to work on those? 16 A. Yes. 17 Q. Was he given more than two hours to work on 18 those? 19 A. On some of those issues, yes. 20 MR. KENNARD: Go off the record. 21 (A break was taken from 11:59 a.m. to 22 12:07 p.m.) 23 MR. KENNARD: Let's go back on the 24 record. 25 Q. (BY MR. KENNARD) All right. Ms. LeHew, we</p>	<p style="text-align: right;">Page 45</p> <p>1 to, you know, continue working with Chris and talking 2 to them about the concerns and looking into them. 3 Q. So even as of June 25th, 2012, Chris was 4 having issues, right? 5 MS. O'DRISCOLL: Objection, form. 6 A. According to Artis, yes. 7 Q. (BY MR. KENNARD) Okay. So, similarly, how 8 Artis' managers brought concerns to you about Artis -- 9 A. Right. 10 Q. -- Artis here is bringing concerns to you 11 about Chris, correct? 12 MS. O'DRISCOLL: Objection, form. 13 A. Well, there's a difference. Her managers 14 brought things to me and they supervised her. Artis 15 did not supervise Chris; it was her boss. So the 16 situation wasn't the exact same situation. 17 Q. (BY MR. KENNARD) But she raised issues to you 18 about Chris, correct? 19 A. Yes. 20 Q. All right. And as you understand -- and who 21 is Ann? 22 A. Ann Jobe was the executive director at the 23 time. 24 Q. Okay. So she was both Chris' boss and Artis' 25 boss, correct?</p>

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Pages 46 to 49

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1 A. No, she was Chris' boss.  
 2 Q. Chris' boss. And you said Chris was Artis'  
 3 boss?  
 4 A. Yes.  
 5 Q. So Ann was higher up the food chain than  
 6 Artis, correct?  
 7 A. Yes.  
 8 Q. Okay. And here it states -- do you have any  
 9 reason to dispute that Ann was intending to continue to  
 10 coach and counsel Chris?  
 11 A. No, I don't have any reason to dispute that.  
 12 Q. Okay. And Ann is Chris' boss, right?  
 13 A. Yes.  
 14 Q. And she was going to coach and counsel Chris  
 15 on issues that he was having, correct?  
 16 A. Yes.  
 17 Q. Okay.  
 18 A. Issues that Artis had with him.  
 19 Q. Chris had issues with -- had performance  
 20 issues -- from your previous testimony today, you said  
 21 that Chris was having performance issues?  
 22 A. Not performance issues. His leadership style  
 23 and his interpersonal skills.  
 24 Q. When I say "performance," I mean in his  
 25 capacity -- in his work capacity.

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1 A. No, he -- he knew the centers very well. In  
 2 his operational functions, he was very strong. His  
 3 interpersonal skills --  
 4 Q. Okay.  
 5 A. -- had some concerns.  
 6 Q. Were you aware that he and Artis were having  
 7 interpersonal issues?  
 8 A. Yes.  
 9 Q. So the interpersonal issues that eventually  
 10 got him terminated, you were aware of, at least as of  
 11 June 25th, 2012, right?  
 12 MS. O'DRISCOLL: Objection, form.  
 13 A. The --  
 14 Q. (BY MR. KENNARD) Go ahead.  
 15 A. The interpersonal skills were not the reason  
 16 for his final termination.  
 17 Q. Was that one of the reasons for his final  
 18 termination?  
 19 A. It was listed in an e-mail to the president,  
 20 but the executive director had two bigger issues that  
 21 resulted in the termination.  
 22 Q. Didn't they get him a coach in December of  
 23 2012?  
 24 A. Yes.  
 25 Q. What was the purpose of that coach?

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1 A. To work with him on interpersonal skills.  
 2 Q. Okay. How long did that coach work with  
 3 Chris?  
 4 A. I'd have to look at the coaching contract. I  
 5 believe it was either three months or six months or  
 6 something.  
 7 Q. And even after the coaching, he still, in your  
 8 estimation, needed to be terminated; is that right?  
 9 MS. O'DRISCOLL: Objection, form.  
 10 A. No, he was not terminated strictly for  
 11 interpersonal skills.  
 12 Q. (BY MR. KENNARD) Okay. Even after he  
 13 received coaching, he was still terminated, correct?  
 14 A. He was terminated after he received coaching.  
 15 Q. Okay. That's my question. Thank you.  
 16 So did -- are you -- did Ms. Ellis get  
 17 coaching?  
 18 A. No.  
 19 Q. Was a coach hired for Ms. Ellis?  
 20 A. No.  
 21 Q. Okay. So you responded to Ms. Ellis on June  
 22 27, 2012 at 1:07 p.m., can you read the second sentence  
 23 for me, please?  
 24 A. Of my response?  
 25 Q. Yes, ma'am. Starting with "And."

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1 A. "And, by the way, there has never been any  
 2 talk of replacing the Houston manager to my knowledge,  
 3 and you know our process requires that."  
 4 Q. And when you're talking about the Houston  
 5 manager, you're talking about Ms. Ellis, right?  
 6 A. Yes.  
 7 Q. There had been no talk, at least as of June  
 8 27, 2012, of replacing the Houston manager, i.e.  
 9 Ms. Ellis, right?  
 10 A. Correct.  
 11 Q. Okay. And then you go on to say, "And you  
 12 know our process requires that." What process are you  
 13 talking about?  
 14 A. The process of termination requires it being  
 15 reviewed with HR.  
 16 Q. What else? Is there any other part of the  
 17 process?  
 18 A. It would have to be the approval of the next  
 19 level person, which it would have been Ann Jobe.  
 20 Q. What else is involved in that process?  
 21 A. That's all.  
 22 Q. Okay.  
 23 MR. KENNARD: I have no further  
 24 questions. Pass the witness.  
 25 MS. O'DRISCOLL: Let me take a quick



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<p>1 break.</p> <p>2 (A break was taken.)</p> <p>3 MS. O'DRISCOLL: Defendant will reserve</p> <p>4 its questions for trial.</p> <p>5 (The deposition concluded at 12:16 p.m.)</p> <p>6</p> <p>7</p> <p>8 -- SIGNATURE REQUIRED --</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Page 50	<p>1 I, BETTY LEHEW, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5</p> <p>6 THE STATE OF _____)</p> <p>7 COUNTY OF _____)</p> <p>8 Before me, _____, on this day</p> <p>9 personally appeared BETTY LEHEW, known to me (or proved</p> <p>10 to me under oath or through</p> <p>11 _____) (description of identity</p> <p>12 card or other document) to be the person whose name is</p> <p>13 subscribed to the foregoing instrument and acknowledged</p> <p>14 to me that they executed the same for the purposes and</p> <p>15 consideration therein expressed.</p> <p>16 Given under my hand and seal of office this</p> <p>17 _____ day of _____, _____.</p> <p>18</p> <p>19</p> <p>20 NOTARY PUBLIC IN AND FOR</p> <p>21 THE STATE OF _____</p> <p>22 My commission expires: _____</p> <p>23</p> <p>24 _____ No Changes Made _____ Amendment Sheet(s) Attached,</p> <p>25 Artis Ellis vs. Educational Commission for Foreign</p> <p>Medical Graduates.</p>	Page 52																																																																																								
<p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: BETTY LEHEW</p> <p>3 DATE OF DEPOSITION: SEPTEMBER 7, 2016</p> <table border="1"> <thead> <tr> <th>4 PAGE</th> <th>LINE</th> <th>CHANGE</th> <th>REASON</th> </tr> </thead> <tbody> <tr><td>5</td><td></td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table>	4 PAGE	LINE	CHANGE	REASON	5				6				7				8				9				10				11				12				13				14				15				16				17				18				19				20				21				22				23				24				25				Page 51	<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE SOUTHERN DISTRICT OF TEXAS</p> <p>3 HOUSTON DIVISION</p> <p>4 ARTIS ELLIS )</p> <p>5 )</p> <p>6 PLAINTIFF, )</p> <p>7 )</p> <p>8 VS. ) C.A. NO. 4:14-cv-02126</p> <p>9 )</p> <p>10 EDUCATIONAL COMMISSION )</p> <p>11 FOR FOREIGN MEDICAL )</p> <p>12 GRADUATES )</p> <p>13 )</p> <p>14 DEFENDANT. )</p> <p>15 )</p> <p>16 REPORTER'S CERTIFICATION OF THE ORAL</p> <p>17 DEPOSITION OF BETTY LEHEW</p> <p>18 SEPTEMBER 7, 2016</p> <p>19</p> <p>20 I, Michelle K. Miller, Certified Shorthand Reporter</p> <p>21 in and for the State of Texas, hereby certify to the</p> <p>22 following:</p> <p>23 That the witness, BETTY LEHEW, was duly sworn by</p> <p>24 the officer and that the transcript of the oral</p> <p>25 deposition is a true record of the testimony given by</p> <p>the witness;</p> <p>That the original deposition was delivered to</p> <p>Mr. Alfonso Kennard</p> <p>That a copy of this certificate was served on all</p> <p>parties and/or the witness shown herein on _____.</p> <p>I further certify that pursuant to FRCP Rule</p> <p>30(f)(1) that the signature of the deponent was</p> <p>requested by the deponent or a party before the</p>	Page 53
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Betty Lehew

September 07, 2016

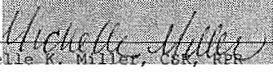
Pages 54 to 55

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1 completion of the deposition and that the signature is  
2 to be before any notary public and returned within 30  
3 days from date of receipt of the transcript.

4 I further certify that I am neither counsel for,  
5 related to, nor employed by any of the parties or  
6 attorneys in the action in which this proceeding was  
7 taken, and further that I am not financially or  
8 otherwise interested in the outcome of the action.

9 Certified to by me on this, the 12th day of  
10 September, 2016.

11  
12  
13  
14   
Michelle K. Miller, CSR, RPR  
15 Texas CSR No. 9312  
Expiration Date: 12/31/16

16  
17 Kim Tindall & Associates, LLC  
Firm Registration No. 631  
16414 San Pedro, Suite 900  
18 San Antonio, Texas 78232  
Tel: 210-697-3400/Fax: 210-697-3408  
19  
20  
21  
22  
23  
24  
25

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1 THE STATE OF \_\_\_\_\_  
2 COUNTY OF \_\_\_\_\_  
3

4 I hereby certify that the witness was notified on  
5 \_\_\_\_\_ that the witness has 30 days, or  
6 (\_\_\_\_ days per agreement of counsel) after being  
7 notified by the officer that the transcript is  
8 available for review by the witness and if there are  
9 changes in the form or substance to be made, then the  
10 witness shall sign a statement reciting such changes  
11 and the reasons given by the witness for making them;

12 That the witness' signature \_\_\_\_ was / \_\_\_\_ was not  
13 returned as of \_\_\_\_\_, 2016.

14 Subscribed and sworn to by me on this, the \_\_\_\_ day  
15 of \_\_\_\_\_, 2016.  
16  
17  
18  
19

20 Michelle K. Miller, CSR, RPR  
Texas CSR No. 9312  
Expiration Date: 12/31/16

21 Kim Tindall & Associates, LLC  
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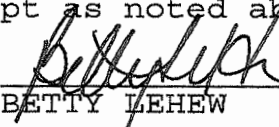
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San Antonio, Texas 78232  
210-697-3408

Betty LeheW

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1 I, BETTY LEHEW, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.

4   
BETTY LEHEW


5  
6 THE STATE OF Pennsylvania )  
7 COUNTY OF Philadelphia )

8 Before me, Vanessa P. Napoleon, on this day  
9 personally appeared BETTY LEHEW, known to me (or proved  
10 to me under oath or through  
11 Driver's License) (description of identity  
12 card or other document) to be the person whose name is  
13 subscribed to the foregoing instrument and acknowledged  
14 to me that they executed the same for the purposes and  
15 consideration therein expressed.

16 Given under my hand and seal of office this

17 26<sup>th</sup> day of September

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
VANESSA P. NAPOLEON, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires April 18, 2017

18   
19 NOTARY PUBLIC IN AND FOR  
20 THE STATE OF PA

21 My commission expires: April 18, 2017

22  
23      No Changes Made   1   Amendment Sheet(s) Attached,  
24 Artis Ellis vs. Educational Commission for Foreign  
25 Medical Graduates.

**Changes for Witness Betty LeHew****Date of Deposition: September 7, 2016**

<u>Page:</u>	<u>Line:</u>	<u>Change:</u>	<u>Reason:</u>
Cover Page and Header on each page		LeHew is spelled incorrectly	spelling
16	13	The issues uncovered that were believed to be disruptive to the center were not things that occurred while she was on Administrative Leave or FMLA leave, they were issues that were reported to management during her FMLA leave and that had actually occurred prior to her taking FMLA leave. The employees did not feel safe in reporting them while she was in the center, but they did report them to the various members of management that were covering the center while Ellis was on the FMLA leave. These incidents led to the decision about Administrative Leave occurred by the defendant prior to her taking FMLA leave.	clarification
30	24	This should read: Because in the opinion of her manager, the Assistant Director of Center Operations, the Executive Director and also myself, the relationship was similar to those described above in the policy. The policy doesn't say it was the one described above. It says it was similar to the ones described above. These opinions were based on the initial explanations provided by the defended when asked about her relationship with Troi as well as her confession the following day where she admitted to lying about her relationship with Troi.	correction
37	14	Dalberg is spelled incorrectly	spelling
39	16	Furman is spelled incorrectly	spelling
40	2	Dalberg is spelled incorrectly	spelling
47	19	This should read: The interpersonal skills were listed in his email to the President, but they were not the primary reason for the termination decision. The Executive Director, Kim LeBlanc had two bigger issues, including falsification of his employment application -that was just discovered -and interfering with the Executive Director's communication with Center Managers.	clarification
48	14	This should read: His termination occurred after he received coaching, but just as a matter of timing, not as a result of the success or failure of the coaching.	clarification

*Betty LeHew* 9/26/16